TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~475~~ 243

HOTAIR IMBAU, JORDAN F. AYCOCK, AND JOSEPH GITZINGER, COMPOSING THE FIRM OF IMBAU, AYCOCK & CO., PLAINTIFFS IN ERROR,

vs.

THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE COMPANY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

FILED AUGUST 30, 1870.

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1 STATE OF LOUISIANA:

Seventh district court for the parish of Orleans.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE CO. } No. 1537.

Petition.—Filed 18th June, 1869.

To the honorable the seventh district court for the parish of Orleans:

The petition of Hortair Inbau, Jordan F. Aycock, and Joseph Gitzinger, residing in the parish of Jefferson, composing the commercial firm of Inbau, Aycock & Co., domiciled and doing business in the
2 said parish of Jefferson, respectfully represents that they are now, and have been for several years past, engaged as a commercial firm in receiving, on consignment and for sale, all kinds of live stock, such as mules, horses, beef cattle, milch cows, calves, sheep, hogs, etc., at their place of business, in the city of Jefferson, known as the Stock Landing, on and near the bank of the Mississippi River, just above the upper boundary of the city of New Orleans; that, in the pursuit of their said business, they have customers in Texas, Louisiana, Kentucky, Missouri, and other places, from whence cattle, mules, horses, sheep, hogs, etc., are shipped to the New Orleans market, who have heretofore consigned the above articles to them for sale, and that the business of petition's has been yearly increasing, and was, until quite recently, on the increase; that they have also, by their industry and uprightous in business, acquired the confidence of their consignors, and of that portion of the community in New Orleans and vicinity who purchase beef cattle, calves, sheep, and hogs, &c., for slaughter
3 to supply the market of New Orleans and environs with butchers' meat, and they have a large and growing number of customers, who, for said purpose, purchase of petitioner; that your petitioner Aycock, in connection with sundry other persons associated together as part owners, have a lease from the city of Jefferson of wharves and landing at the lower limit of said city known as the Stock Landing, and have the lease of extensive grounds in the neighborhood of said Stock Landing, at a monthly rental of four hundred dollars, at which Stock Landing, and on which grounds thus leased, he and his associates have erected extensive improvements in the shape of wharves, ways, sheds, stables, yards, &c., with all the necessary machinery thereto, and which improvements are now worth a sum exceeding twenty thousand dollars; that your petitioner Aycock is the owner of three undivided sixteenths of the leases and improvements as aforesaid, and received three-sixteenths of the nett profit arising from the hire and use of said Stock Landing and other improvements by those having cattle, &c., in this market.

4 Your petitioner further represents that, in the pursuit of their said business, they have a long time since made arrangements to receive cattle and live stock as aforesaid in consignment and for sale with the raisers and dealers in stock in the States heretofore mentioned, and in all parts of the country, sending stock, &c., to this market for sale, and have established an extensible and profitable business of the kind as aforesaid, and, as hereinbefore stated, have established, at great expense, their landings, stables, etc., at said Stock Land-

ing, and have, as individuals, in various ways, invested large amounts of capital and sums of money in and near the vicinity of said Stock Landing, all intimately connected with and necessary to their living, and residing, and doing, and carrying on business there as aforesaid; that they have become extensively known as dealers in live stock of all kinds, and especially in beef cattle, sheep, and hogs, as designed to supply the market of New Orleans and Jefferson and vicinity with butchers' meat; that they have obtained, as customers, a large
5 number of butchers and others engaged in the slaught'ing of cattle, sheep, calves, hogs, etc., and preparing the same for market as butchers' meat, and that they now have said butchers and others as their customers to the profit of petitioners, and to the benefit of the butchers aforesaid, as also to the benefit and profit of the inhabitants of the parishes of Orleans and Jefferson; that said butchers and others, as aforesaid, have located themselves near said Stock Landing, and in the vicinity thereof, to the extent of several hundred property-holders and heads of families, who have purchased lots, built houses thereon, or residences for themselves and families, erected stables, slaughter-house, and prepared all the necessary machinery, &c., for butchering cattle, etc., and preparing the meat for, and taking the same to market, there to be disposed of to the inhabitants of the citys of New Orleans and Jefferson; that the property thus invested by their customers as aforesaid, and by others in the same line of calling and business, and the business incident thereto, far exceeds in value the sum of one million of dollars, and all of which property greatly depends for its value
6 upon the business of slaughtering beeves, etc., in that vicinity for supplying the markets of New Orleans, etc., with butchers' meat.

Now, your petitioner allege and aver that though they and their customers as aforesaid have for many years been engaged as good citizens in their legitimate and lawful business, catering in their way to the wants and necessities of the inhabitants of New Orleans and Jefferson, and so conducting the same that no detriment has ever happened to the community or the cities aforesaid, and by their labor and exertions increased and added to the prosperity of the city and State, yet that certain persons, supposed to be residents of the parish of Orleans, combining and conspiring together for the purpose of unlawful gain, and with the specious but false pretense of protecting the health of the city of New Orleans, and by deception, fraud, bribery, and corruption, and unlawful means procure the passage of an act through the legislature of the State of Louisiana, and its approval by the governor of the State, entitled "An act to protect the health of the city of New
7 Orleans, to locate the stock landing and slaughter-house, and to incorporate the Crescent City Live Stock Landing and Slaughter House Company," being No. 118 of the acts, and approved March 8th, 1869, by and in virtue of which acts they, the parties named in said act, and others for the most part to your petitioners unknown, have organized a company in the parish of Orleans, known and designated as the act aforesaid, and are now setting up pretentions to an exclusive privilege and monopoly of the entire trade in beef cattle, live stock, sheep, hogs, etc., in the parishes of St. Bernard, Orleans, and Jefferson, and in the landing, keeping, slaughtering, and butchering of all the cattle, live stock, etc., as aforesaid, in said parishes, and did procure the insertion in said act, in the said illegal and unconstitutional manner, certain provisions imposing heavy fines and penalties upon your petitioner and their customers as aforesaid should they continue in the

poursuit of their colling and business, as heretofore and as hereinbefore stated, and upon the owners of steamships, railroads, and other mode of transportation who are in the habit of bringing or consigning
8 to your petitioners live stock, cattle, and delivering the same at the landings and stables of petitioners, and which would interfere with their vested rights of pursuing a lawful colling, and with their rights of property, should the imposition of said penalties be attempted; that said company have not only procured the passage of said act in the unlawful manner and with the unlawful designes as aforesaid, and have proceeded since its passage to their organisation, and to threats of the enforcement of the fines and penalties as aforesaid, but have proceeded by writs of injunction to restrain the Butchers' Benevolent Association of New Orleans, a private and charitable corporation, and consisting of upwards of four hundred members, many of whom are customers to your petitioners, and have enjoined them from trading with your petitioners in effect, and from butchering in their own slaughter-house, near the places of business of petitioners, and have threatened similar injunction against all others trading or buying with or for your petitioners, are thus attempting to break up the business of the
9 customers of your petitioners among said Butchers' Benevolent Association and others, or compel them to remove from their present location and patronise the slaughter-houses of said Crescent City Live Stock Landing and Slaughter House Company exclusively, and to the manifest damage and detriment of petitioners and the breaking up of their business; that, by the illegal and unconstitutional acts aforesaid, the said Crescent City Live Stock Landing and Slaughter House Company have already caused damage to your petitioners in at least the sum of ten thousand dollars, and, should they persist and continue in their illegal and unconstitutional acts as aforesaid, they will entirely break up the business of your petitioners, cause a loss to them of most of the customers, greatly depreciate the value of their property, and render the same comparatively worthless, and, indeed, inflict upon them great and irreparable damage to an extent which it is imposible to estimate.

Your petitioners allege and aver that they are informed and belives that said act of the 8th of March, 1869, is unconstitutional and contrary to ar'cles 10, 42, 110, and 114 of the constitution of Louisiana, and to the 14th amendment of the Constitution of the United States,
10 and is in violation and subversive of the rights reserved to the people by the 10th amendment to the Constitution of the United States, of rights of which the people, including petitioners, have never devested themselves, of which they cannot divest themselves and remain a free people; and petitioners further allege that an injunction is necessary.

Wherefore the premises, annexed affidavit, and bond being considered, petition's pray that the said Crescent City Live Stock Landing and Slaughter House Company, throgh F. J. Pratt, its president, be enjoined and restrained, as well as its officers, agents, servants, employes, and attorneys, from in any way, form, or manner interfereing with the business of petitioners, either directly or indirectly, or from in any manner or form arresting or attempting to enforce, by suit or otherwise, any of the provisions of the act under which said company claims to have its corporate existence as against any person or persons whatsoever, and especially against your petitioners, or any of the customers of your petitioners, including the president and members; and that said
11 Crescent City Live Stock Landing and Slaughter House Com-

pany, both as to all its members, employees, attorneys, and agents, be enjoined from the interference with your petitioners in the manner and conduct of their business; and also that they be enjoined from interfering, directly or indirectly, by suit or otherwise, with the customers of your petitioners in the purchase, slaughter, and butcher of animals of all kinds used for meat in New Orleans and vicinity during the pendency of this suit; and that they further pray that, after citation and all due proceedings, this injunction be made perpetual, and that there be judgement against said Crescent City Live Stock Landing and Slaughter House Company for ten thousand dollars damages already incurred, with the right reserved of claiming additional damages, as the same may occur by supplemental petition or additional suit; and they further pray for costs of suit and all general and equitable relief, and for trial by jury.

(Signed) COTTON & LEVY,
CAMPBELL, SPOFFORED & CAMPBELL,
FELLOWS AND MILLS, *Att'ys.*

12 *Affidavit.*

Personally appears J. F. Aycock, who, been duly sworn, says he is a member of the firm Inbau, Aycock & Co., and that all the statements and allegations of fact in the foregoing petition contained are true and correct.

(Signed) J. F. AYCOCK.

Sworn to and subscribed before me this 18th day of June, 1869.

(Signed) A. D. BERNOUDY, *Clerk.*

Order.

Let rule nisi issue to F. J. Pratt, president of the Crescent City Live Stock Landing and Slaughter House Company, to show cause, on Saturday, the 19th June instant, at one o'clock p. m., why the injunction herein prayed for by Inbau, Aycock & Co. should not be issued as herein prayed for.

New Orleans, June 18th, 1869.

(Signed) T. WHARTON COLLENS, *Judge.*

Bond.—Filed 18th June, 1869.

13 Know all men by these presents that we, Inbau, Aycock & Co., and John Weber, Frank Hener, and A. Dumestre, as securitys, of the city of New Orleans, and State of Louisiana, are held and firmly bound unto The Crescent City Live Stock Landing and Slaughter House Company in the sum of five thousand dollars, lawful money of the United States of America, to be paid to The Crescent City Live Stock Landing and Slaughter House Company, its heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us himself, and each of our heirs, executors, administrators, firmly by these presents, sealed with our seals, and dated the twenty of June, in the year of our Lord 1869.

Whereas the said Inbau, Aycock and Company has this day presented a petition to the honorable the seventh district court for the parish of Orleans, praying a writ of injunction:

Now, the condition of the above obligation is, that we, the above-

bound Inbau, Aycock and Company, and the above-named and below-signed securities, John Weber, Frank Hener, and A. Dumestre,
14 will well and truly pay to the said Crescent City Live Stock and Slaughter House Company, the defendants in said suit, all such damages as it may recover against us in case it should be decided that the injunction was wrongfully obtained.

(Signed) INBAU, AYCOCK & CO. [L. S.]
" JOHN WEBER. [L. S.]
" FRANK HENER. [L. S.]
" A. DUMESTRE. [L. S.]

Citation.

STATE OF LOUISIANA:

Seventh district court for the parish of Orleans, in the city of New Orleans.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

To F. J. Pratt, president of the Crescent City Live Stock Landing and Slaughter House Company:

15 You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the seventh district court for the parish of Orleans, on Charters street, between St. Ann and St. Anthony ally, in ten days after the service hereof.

Witness the Honorable Thomas Wharton Collens, judge of the said court, of the 18th day of June, in the year of our Lord 1869.

[SEAL.] (Signed) A. D. BERNOUDY, *Clerk.*

Return.

Received 18th June, 1869, and on the same day served a true copy of within citation and accompanying certified copy of petition personally on F. J. Pratt, esq., president. Returned same day.

(Signed) J. F. DICK, *D'y Sheriff.*

Writ of injunction.

STATE OF LOUISIANA:

16 Seventh district court for the parish of Orleans, the State of Louisiana.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

To F. J. Pratt, president of The Crescent City Live Stock Landing and Slaughter House Company, its agents, servants, and employes, greeting:

Your are hereby commanded, enjoined, and restrained, in the name of

the State of Louisiana, and of the seventh district court for the parish of Orleans, from in any way, form, or manner molesting, indering, interfering with, and from attempting to hinder or interfere with, the plaintiffs, by force, or suit, or otherwise, in the exercise of their, the said plaintiffs', right, privilege, or business of landing, receiving, stabling, yarding, feeding, keeping, protecting, and selling cattle, swine, or other animals destined for sale or slaughter within the parishes of Or-
17 leans, Jefferson, and St. Bernard; and you are so enjoined and restrained until the further order of this honorable court.

Witness the Honorable Thomas Warton Collens, judge of said court, this 21st day of June, in the year of our Lord one thousand eight hundred and sixty-nine, and in the 93d year of the independence of the United States.

[SEAL.] (Signed) A. D. BERNOUDY, *Clerk.*

Return.

Received 21th June, 1869, and on the same day, at one quarter to one o'clock p. m., served copy of this writ of injunction on F. J. Pratt, president of The Crescent City Live Stock Landing and Slaughter House Company. Returned same day.

(Signed) S. ROUSSEAU,
Dy Sheriff.

Order to show cause.

STATE OF LOUISIANA:

18 Seventh district court for the parish of Orleans, the State of Louisiana.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE COMPANY. } No. 1537.

To F. J. Pratt, president of The Crescent Live Stock Landing and Slaughter House Company, greeting:

You are hereby commanded, in the name of the State of Louisiana and of the seventh district court for the parish of Orleans, to show cause, on Saturday, the 19th of June instant, at 1 o'clock p. m., why the injunction herein prayed for by Imbau, Aycock & Co. should not be issued, as herein prayed for; and what you do in the premises you make return thereof, together with this writ, to our said court, as the law directs.

Witness the Honorable Thomas Wharton Collens, judge of our said court, this 18th day of June, in the year of our Lord one thousand
19 eight hundred and sixty-nine, and in the 93d year of the independence of the United States.

[SEAL.] (Signed) A. D. BERNOUDY, *Clerk.*

Return.

Received 18th June, 1869, and on the same day, at the hour of quarter to ten p. m., served a true copy of the within writ on F. J. Pratt, president. Returned same day.

(Signed) J. F. DICK,
Dy Sheriff.

Note evidence.—Filed 19th June, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE COMPANY. } No. 1537.

JUNE 19TH, 1869.

On rule, counsel for defendant offers in evidence suit of
20 Butchers' Benevolent Association vs. Crescent City Live Stock and Slaughter House Company, No. 585, in the 5th district court for the parish of Orleans.

Hearing and submitting rule.—Extract from the minutes of June 19th, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE COMPANY. } No. 1537.

The rule herein to show cause why an injunction should not issue in this came on to-day—present, H. M. Spofford, W. R. Mills, and J. B. Cotton for plaintiffs; C. Roselius, W. H. Hunt, and J. P. Hornor for defendants—when, after hearing pleadings, evidence, and argument of counsel, the court took time to consider.

Order of court.—Filed 21st June, 1869.

Let The Crescent City Live Stock Landing and Slaughter House Company be enjoined and restrained, and its president, officers,
21 agents, servants, and employes be enjoined and restrained from in any way, form, or manner, molesting, hindering, interfering with, and from attempting to hinder or interfere with, the plaintiffs, by force, or suit, or otherwise, in the exercise of their, the said plaintiffs', right, privilege, or business of landing, receiving, stabling, yarding, feeding, keeping, protecting, and selling cattle, swine, and other animals destined for sale or slaughter within the parishes of Orleans, Jefferson, and St. Bernard, upon the said plaintiffs, Inbau, Aycock & Co., giving bond, with good and solvent security, in the sum of five thousand dollars, conditioned as the law directs.

New Orleans, 21st June, 1869.

T. WHARTON COLLENS, *Judge.*

Rule to dissolve injunction.—Filed 28th June, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND SLAUGHTER HOUSE COMPANY. } No. 1357.

On motion of W. H. Hunt and others, of counsel for the
22 defendants, it is ordered by the court that the plaintiff herein do show cause, on Friday, the 2nd day of July, at 10 a. m., why the injunction herein issued should not be set aside and dismissed on the

following grounds, to wit: That the said injunction issued in violation of law, because the act incorporating the defendants is valid and constitutional.

Service accepted.

(Signed) COTTON & LEVY, *Att'ys for Pl'ffs.*
W. H. HUNT, *for Def'ts.*

Notice.

STATE OF LOUISIANA:

Seventh district court for the parish of Orleans.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

To Cotton and Levy, attorneys at law:

23 SIR: Please to take notice that the rule to dissolve the injunction in the above-entitled case is fixed for trial on Friday, the 2d day of July, 1869, at 10 o'clock a. m.

[SEAL.] (Signed) H. J. DUSSER, *D'y Clerk.*

Return.

Received June 28th, 1869, and, on the 29th day of same month and year served copy of the within notice personally on J. B. Cotton, e'qr., of the firm of Cotton and Levy, attorneys. Returned same day.

(Signed) H. F. LIND, *D'y Sheriff.*

Rule for contempt.—Filed 28th June, 1869.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

On motion of Campbell, Spofford and Campbell, Cotton and
24 Levy, and Fellows and Mills, attorneys of Inbau, Aycock & Company, plaintiffs in the above-entitled and numbered cause, and on suggesting to the court that the defendant, through F. J. Pratts, its president, has desobeyed the writ of injunction issued in this cause, in this, that by instituted by said Crescent City Live Stock Landing and Slaughter House Company, in the fifth district court for the parish of Orleans, against The Steamboat B. L. Hodge No. 2, and her owners, being suit No. , of the docket of said court, the ground and cause of action therein being said steamboat B. L. Hodge No. 2, and her owners, in contravention of the provisions, said Crescent City Live Stock Landing and Slaughter House Co. did, on the 25th June, 1869, land certain animals intended for sale or slaughter at the city of Jefferson, to the number of 226 heads of beef cattle, as more fully shown by a copy of said petition hereto annexed as part of this motion, and in which petitioners' payment for two hundred and fifty dollars, with interest and cost, is prayed for:

And in further suggesting that said beef cattle, the landing whereof

is complained of, were cattle consigned to movers in this rule, and
25 landed at their stock landing, which landing and consignment are protected by the injunction granted in this case:

It is ordered that F. J. Pratt, president of said Crescent City Live Stock and Slaughter House Company, show cause, on 2 day July, 1869, at 10 o'clock, why he should not be decreed to stand in contempt of this honorable court in the premises, and be punished thereof as this honorable court may determin.

Return.

Received June 29th, 1869, and on the same day served copy of the within rule personally on F. J. Pratt, president of The Crescent City Live Stock Landing and Slaughter House Company.

(Signed) W. J. GRADY, *D'y Sheriff.*

Petition annexed to rule.—Filed 28th June, 1869.

To the Honorable Charles Leatmont, the judge of the fifth district court for the parish of Orleans:

The petition of The Crescent City Live Stock Landing and Slaughter House Company, a body corporate under the laws of Louisiana,
26 respectfully shows—

That said corporation is authorized by law to establish and erect wharves, stables, buildings, etc., necessary to land, stable, shelter, protect, and preserve all kinds of horses, mules, cattle, and other animals from and after the time such buildings, etc., are ready and complete for business, and public notice thereof given, and the sole and exclusive privilege of conducting and carrying on the live-stock landing and the slaughter-house business of cattle and other animals destined for sale and slaughter in New Orleans and its environs is conferred exclusively upon petitionners, as is fully set forth in the act of incorporation aforesaid; that your petitionners have erected the buildings, etc., and given to notice required by law, and are now ready to, and have proceeded to the discharge of the duties devolving on them since the first day of June, 1869.

That by section one of the act of the legislature, approved March 8, 1869, No. 118 of session acts, it is provided that any person or persons, or corporation or company, carrying on any business or doing
27 any act in contravention of this act, or landing, slaughtering, or keeping any animal or animals in violation of this act, shall be liable to a fine of two hundred and fifty dollars for each and every violation, the same to be recoverable, with cost of suit, before any court of competent jurisdiction.

That by section eight of the said act of the legislature it is provided that all the fines and penalties incurred for violation of this act shall be recoverable in a civil suit before any court of competent jurisdiction, said suit to be brought and prosecuted by said company or corporation (The Crescent City Live Stock Landing and Slaughter House Company) in all cases where the privileges granted to said company or corporation by the provisions of this act are violated or interfered with; that one-half of the fines and penalties recovered by said company or corporation, in consideration of their prosecuting the violation of this act; and the other half shall be paid over to the auditor of public accounts, to the credit of the educational fund.

That by section four of the said act of the legislature, it is provided

that, after the first day of June, A. D. 1869, said company (The
28 Crescent City Live Stock Landing and Slaughter House Company) shall have the exclusive privilege of having landed at their wharves or landing places all animals intended for sale or slaughter in the parishes of Orleans and Jefferson; and, by section first of said act, all persons are prohibited from landing, keeping, or slaughtering any cattle, beeves, calves, sheep, swine, and other animals at any point within the city of New Orleans, or parishes of Orleans, Jefferson, and St. Bernard, except at the establishment of petitioners.

Petitioner further shows that the steambort B. L. Hodge No. 2, and her owners, Ja's A. Aiken, John H. Menge, and John Boardman, who all reside in the city of New Orleans, are justly and truly indebted in solido to your petitioner for itself and for account of the State of Louisiana in the full sum of two hundred and fifty dollars, with interest and costs, now due and owing for this, to wit:

That the said steamboat B. L. Hodge No. 2 and her said owners, in contravention of the provisions of the said act of the legislature and in violation of the privileges of petitioner, did, on the 25th day of June, 1869, land certain animals intended for sale or slaughter
29 within the above-named prescribed limits, to wit, 226 heads of cattle, (beef cattle,) more or less, at a place other than the establishment of your petitioner, and within the parishes of Orleans, Jefferson and St. Bernard, to wit, at city of Jefferson, in the parish of Jefferson, and that said steamboat B. L. Hodge No. 2 and her said owners have became undebted to petitioner as aforesaid, and that said sum is now due and owing.

Wherefore petitioner prays that said steamboat B. L. Hodge No. 2 and her said owners, Ja's A. Aiken, John H. Menge, and John Boardman, be cited to appear and answer this petition, and that, after due proceedings had, *that* they be condemned in solido to pay to petitioner, for itself and for the State of Louisiana, said sum of two hundred and fifty dollars, with interest and costs, and petitioner prays for general relief.

(Signed) RANDALL HUNT,
" C. ROSELIUS,
" W'M H. HUNT,
" JOS. P. HORNER,
Att'ys.

Exception.—Filed 30th June, 1869.

30 INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No 1537.

Now come into court the defendants in the above-entitled cause, and except to the plaintiffs' action on the following ground, to wit:

1st. That the petition discloses no cause of action.

2d. That it contains impertinent and scandalous averments and vague and general allegations *and vague and general allegations.*

Wherefore defendants pray to be dispensed with answering said petition, and that the same be dismissed, with costs.

(Signed) W. H. HUNT,
" R. HUNT,
" C. ROSELIUS,
Of Counsel.

Order, rule continued.—Extract from the minutes of Friday, 2d July, 1869.

31 INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

Upon motion and suggestions of W. H. Hunt, of counsel for defendants, and after hearing counsel for both parties, it is ordered that the rule herein taken for contempt of court be continued to Monday next, at 10 a. m.

Doctor's certificate.—Filed 2d July, 1869.

This is to certify that I am attending Mr. F. J. Pratt; that he has been quite sick the past two days, and still continues so; he is confined to his bed, and unable to attend to any business.

W. H. BERTHELOT, *M. D.*,
170 Canal St.

Order, rule continued.—Extract from the minutes of Monday, 5th July, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.
32

The rule and exception taken in this case came on this day for trial—Hunt and Denegre and C. Roselius for plaintiff in rule and exception; Campbell, Spofford and Campbell, Cotton and Levy, Fellows and Mills, for defendants in rule and exception—when, after hearing pleadings and arguments of counsels, it is ordered that the same be continued until Tuesday, at 10 o'clock, for further argument.

Order, rule continued.—Extract from the minutes of Tuesday, 6th July, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

The rule and exception taken in this case came on again this day—present, W. H. Hunt and C. Roselius, for plaintiff in rule & exception; Campbell, Spofford & Campbell, Cotton & Levy, Fellows & Mills,
33 for defendants in rule and exception—when, after hearing additional argument, it is ordered that the same be continued until to-morrow, 7th instant, at 10 o'lock a. m., for further argument.

Order and continuance.—Extract from the minutes of Wednesday, 7th July, 1869.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

The rule and exception in this case came again this day—Hunt,

Roselius, and Dènegree, for plaintiff in rule and exception; Campbell, Spofford and Campbell, Cotton and Levy, Fellows and Mills, for defendants in rule and exception—when, after hearing additional argument, the same was submitted.

Opinion of court.—Filed 2d November, 1869.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Company. } No. 1537.

34 Defendants move for a dessolution of the injunction issued in this case. The motion proceeds on the single reason "that the act encorporating the defendants is valid and constitutional," while the plaintiffs base their suit upon the converse proposition, viz: that the act is unconstitutional. Thus I have to decide this isolated question of constitutionality.

After diligent examination of the elaborate arguments and authorities furnished by the very able and profound jurists who have, on the one part, attaked, and, on the other, defended the act of incorporation in question, I find myself unable to reconcile that act with a practical and bona-fide enforcement of the Constitution and laws of the United States, or with the constitution of this State.

1°. It creates a monopoly.

2°. It prohibits the landing of live stock on both banks of the Mississippi River, along the whole lenth of the port of New Orleans, except at the place that may be selected by a private company, and there subjects the stock to charges levied for the use and benefit of this private company.

I.

35 It has been decided that the State can create a monopoly. Several examples of such creations, sanctioned by the courts of this State, may be cited; but these were under our former constitutions, which contained no bill of rights. In other States, also, creations of monopolies have been sustained wherever the constitution did not prohibit them expressly, or were devoid of any other provisions contrary in principal and effect to the existence of a monopoly. These decission are generally, I doubt not, in accordance with sound doctrine; for the sovereign power of legislation can only be limited by express constitutional language, or necessary implication from that language; and, at the time of those decisions, no such express or implied restrictions were imposed on the legislature by the federal or State constitution; but now, through recent changes, the reverse is the fact. Both now contain articles which are, by necessary implication, entirely adverse to monopolies. A simple statement of the essential nature of a monopoly will show this. Blackstone defines a monopoly to be "a licence or privilege allowed by the king for 'the sole buying and selling, making, working, or using, of anything whatsoever, whereby the subject in general is re-
36 strained from the liberty of manufacturing or trading which he had before.'" It is apparent by this definition that the main characteristic or very essence of a monopoly is the nequality it produces by its giving to one subject an advantage or right which others are not permitted to enjoy. It is taking away from the public, the people, and the

people's government some general liberty, privilege, immunity—some "civil right" they had before—to confer it all and exclusively upon a particular person or corporation. The act incorporating the defendants gives them the sole and exclusive privilege of conducting and carrying on the live-stock landing and slaughter-house business, while it prohibits all other persons from following the same avocation. It inflicts a penalty on persons generally for doing precisely what the Slaughter House Company in particular is authorise to do with impunity. Such an act is clearly inconsistent with the fourteenth constitutional amendment and to the first and second sections of the Louisiana bill of rights. They are as follows:

"No State shall make or enforce any law which shall abridge the liberties or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process
37 of law, nor deny to any person the equal protection of the laws." (Fourteenth cons. am., art. 1.)

"All men are created free and equal, and have certain unalianable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed." (Bill of rights, art. 1.)

"They (the citizens) shall enjoy the same civil, political, and public rights and privileges, and be subject to the same pains and penalties." (Bill of rights, art. 2.)

The mere quotation of these articles sufices. Comment is unnecessary to show how the act in question conflicts with their plain language and intention. Giving an exclusive privilege, immunity, or right to one is necessarily an abridgment of the privileges, immunities, or rights of others.

If the legislature had the constitutional right of giving the business of butchering to this company alone, they might instead, on the same principle, have given it to the white people only, and have prohibited the blacks, or vice versa.

It is argued that this is a health law, as expressly stated in its title, and that, in passing it, the legislature only exercised their undeni-
38 able power of preventing acts injurious to the general health, and of preventing and suppressing nuisances. I think, however, that even so commendable a purpose as the protection and promotion of the public health cannot be a sufficient ground for any violation of the constitution. The beneficent purpose must be accomplished constitutionally. Not even to punish a most revolting murder may we disregard the constitution, nor need we apprehend any great difficulty in accomplishing the suppression of nuisances by means of constitutional enactments and appliances only. The law has always regarded and treated slaughter-houses as nuisances, but not as nuisances per se, and therefore they cannot be arbitrarily abated or disposed of.

Though generally generators of offensive oders, they are not wholly injurious or useless. They cannot be dispenced with, being, on the contrary, necessary to the food supply of the community. The must exist somewhere, and near by, in the midst of the people. The place at which they must be erected the legislature may designate, but not so to deprive citizens of their equal rights; not so as to prevent all, except a single person or corporation or favored few, from engaging in
39 the useful business, and certainly not so as to take those liberties which belonged the many and vest them only on one. In fact, the infectiousness of a slaughter-house is not inherent but accidental.

It is caused only by neglect of cleanliness. By the immediate removal of feculent matter and debris, and by through cleanings with abondant water, a slaughter-house may be made as salubrious and as inoffensive a place as the market-house or hospital or the kitchen of a large hotel. Modern chemistry and art converts all the refuse of a slaughter-house into useful products in a few hours, and without diffusing unpleasant gases; but, unfortunately, butchers are ordinarily unmindful of the comfort and health of their neighbors in this particular, and will not take the necessary pains, and hence, instead of compelling them to cleanliness, it has been for time immemorial thought best to remove them to remote places. This long-established liability to removal cannot, however, justify making them the vassals and tributaries of a private monopoly. Their delinquency concerns the public police, and that police can only subject them to an equal and common rule, "a rule for all butchers, favoring none, and from which not a single butcher or slaughter-house company would be exempted."

40 II.

The act of Congress of 8th April, 1812, (see Brightley's Digest, p. 583,) made it a condition-precedent to the admission of Louisiana into the Union "that the river Mississippi, and the navigable waters leading into the same and into the Gulf of Mexico, shall be common highways, and forever free, as well to the inhabitants of the said State as to the inhabitants of the other States and the Territories of the United States, without any tax, duty, impost, or toll therefor imposed by the said State." So, also, the Constitution of the United States confers upon Congress the power of regulating commerce, and deprives the States of all right of imposing restrictions, or of lying duties, etc., except what may be absolutely necessary for executing inspection laws.

The State, therefore, has not the power to regulate the navigation of the Mississippi or to restrict the use of its banks so as to deprive commerce of the end and effect intended by the specific and distinct guarantee of free navigation; for this free navigation would be illusory if vessels have not also the right freely to lade and unlade their cargoes at any convenient place on the shore. One right necessarily implies the other. Commerce with all the other States and the rest of the
41 world implies it. Indeed, it existed by common right and express legislation in Louisiana long before this act of Congress was passed. The laws of the State have always subjected the banks of the river to this servitude to commerce, reserved also by the act of Congress.

The civil code, art. 446, says: "The use of the banks of navigable rivers and streams is public; accordingly, every one has a right freely to bring his vessels to land there, to make fast the same to the trees which are planted, to unload his vessels, to deposit his goods, to dry his nets, and the like." Of course, the servitude thus imposed, and which is perpetuated by the supreme authority of the act of Congress, must be exercised with due regard to private rights.

It is under the control of the public powers of the State, so far as to secure an orderly use of the liberty or privilege to all. But there is a total dissimilitude between a law providing for this orderly but free use, and the law incorporating the defendants; for this law (1) prevents any freedom whatever; (2,) walls up many miles of the shores of the river on both sides against an important branch of commerce; (3,) vests, as it were, a private company with an ownership in one of the greatest ports of entry in the United States; (4,) gives this company

42 alone the authority to establish wharves for vessels bringing live stock into the port of New Orleans; (5,) yields it the exclusive right of having one or more stock landings with the exclusive privilege of having landed at its wharves or landing-places all animals intended for sale or slaughter in the parishes of Orleans and Jefferson; (6,) authorises it to determine at what points or places wharves, stock landings, etc., may be erected; (7,) grants it the power of levying wharfages, not simply on the vessels according to tonage and time, but a round sum on the vessels, and a duty of ten cents per head on large, and of five cents per head on small beasts landed in this port; and (8) all this is made effective by penal clauses imposing fines, etc.

Now, I think it clear this is not only a police regulation of the great trade in live stock coming to this market, but going far beyond such mere police ordinances as are necessary to prevent collision and disorder in the port, or to secure an equal and convenient use of the public banks to all. It amounts altogether to a bold and well-contrived regulation of commerce, compelling the coveted trade to flow into the channels, and leave its tributes in the coffers, of this private monopoly. It
43 closes all the port except the wharf, slaughter-house, and stables of the company to that trade. To my understanding, its restrictions and preferences appear plainly as a violation of the act of Congress guaranteeing the freedom of the river to commerce. The case differs materially from that of Municipality vs. Pearce, 2d An., 538. Here is not, as in that case, a just renumeration asked for a service rendered and freely accepted, but an absolute command to use the wharf or landing of a single and particularly named person for the privilege, coupled with a prohibition from taking advantage of any proffered competition or other unoccupied landing. If such regulation can be made for this trade, they can be made for all others, and it is only necessary to imagine a similar distribution of every branch of trade flowing into this port among a number of such companies and ther warehouses, etc., to become fully conscious how far this law goes beyond to province of health, inspection, and police laws, and is really such a restraint on commerce and navigation as the supreme law of the land forbids.

The act incorporating the defendants is an organic en-
44 tirely; all its parts are interwoven so as to concur in and operate only for the monopoly created; all the provisions contain expressely directed to this central purpose in such a manner that not one of them can be severed for the rest without disturbing the whole systeme.

Hence the unconstitutional elements I have mentioned affect the entire statute, and no part of it can be sustained.

It is therefore ordered that the rule be dismissed.

Order, rule dismissed.—Extract from the minutes of Tuesday, 2d November, 1869.

INBAU, AYCOCK & CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

For the reasons assigned in the written opinion of the court this day delivered and filed in this court, it is ordered, adjudged, and decreed that the rule to dissolve the injunction herein issued be dismissed, with costs.

45 *Order, exceptions overruled.—Extract from the minutes of Saturday, 13th November*, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

The exception filed in this cause was called up this day for trial—counsel for both parties present—and submitted to the court without argument, and for the reasons assigned and on file in this cause, of date 2nd November, 1869, it is adjudged and decreed that the said exception be overruled, with costs.

Answer.—Filed 6th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

And now comes the defendants, by their attorneys, and, reserving the benefit of all their exceptions heretofore filed, say, should said exceptions be overruled, and not otherwise, that for answer to plaintiffs' petition they deny all and singular the allegations therein contained; and for further answer they aver that said plaintiffs' petition set forth no legal cause of action.

46 They aver that the allegations of said petition are impertinent, scandalous, and criminous; that it contains general, loose, and railing accusations against these defendants, without certainty, specification, or detail, charging that they did, corruptly, fraudulently, and unlawfully, procure the enactments of the statute by which they became incorporated by the use of bribes and other seductive and criminal means with and among the members of the legislation; that it charges the defendants with being a band of adventurers, in the sence of being disreputable persons who live by chance, who are without property and without stake in the community; that it charges that the stockholders embrace the governor of the State and a number of members of the general assembly, who participated in the passage of the act of incorporation, in flagrant violation of their public duty, and with flagitious violations of the constitutions of the State and of the Union, and to afford help to certain indigent and beggarly officials in the State government; that the whole tenor of said petition is to scandalize and defame these defendants and the legislative and executive department of the government, and to bring them and the law into odium and contempt; that it alleges matters which it is unbecoming the dignity of the court to hear, and charges persons with crimes and misdemeanors and misconduct and corruption not only not necessary to be shewn in the cause, but which could not lawfully be shewn, even if they were true, as these defendants aver them not to be.

47 Wherefore defendants says that said petition ought not to be entertained, and they pray to be hence dismissed, with costs, and with judgment in their favor, and for general relief.

(Signed) WILLIAM H. HUNT,,
" JOSEPH P. HORNER, *Attorneys.*
" RANDALL HUNT,
" CHRISTIAN ROSELIUS,
Of Counsel.

Order, exception overruled.—Extracts from the minutes of Thursday, 9th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

The exception in this cause were taken up this day—present J. Q. A. Fellows, for the plaintiffs; J. P. Horner, for defendants—when, after hearing pleadings and counsel, and the court considering the law under the pleadings to be with plaintiffs, it is adjudged and decreed that said exception be overruled, with costs.

48 *Note evidence.—Filed 9th December, 1869.*

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

Plaintiffs offer in evidence the admission of facts, now filed and marked "AF,' see page 48; also agreement "K," see page [49;] also testimony taken out of court on the question as to the completion of the work in suit No. 1883 in this court.

Defendants reserve their bill of exception to the admission of said testimony, and now offer their testimony taken in this case in the clerk's office.

Admission "AF."—Filed 9th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

It is admitted that plaintiffs, each and all of them, have property, business connections, and are and have been engaged in their said business, and have wharves, landings, stables, etc., etc., and customers, as expressed in their petition; that the property of themselves and their customers, and those engaged in a similar kind of business near
49 the stock landing, is worth manny thousands of dollars, and that the value of the same would be materially diminished by carrying into effect act No. 118 of 1869; that the defendants have organized under said act, and used threats and taken out injunctions tending to restrain petitioners and their customers from pursuing their business as before the 1st of June, 1869, and the passage of the act.

New Orleans, 9th December, 1869.

(Signed) JOSEPH P. HORNER,
For Plaintiff.
" FELLOWS AND MILLS,
Of Counsel for Butchers.

Agreement "K."—Filed 9th December, 1869.

INBAU, AYCOCK & CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

It is hereby agreed that the following cases, involving the rights of The Crescent City Live Stock Landing and Slaughter House Company, namely, The Butchers' Benevolent Association vs. The Crescent City Live Stock Landing and Slaughter House Company, No. , 6th district court; Inbau, Aycock and Co. vs. The same et al., No. 1537, 7th district court; The Live Stock Dealers and Butchers' Association
50 vs. The same et al., No. 1883, 7th district court; The Crescent City Live Stock Landing and Slaughter House Company vs. The Butchers' Benevolent Association, No. 585, 5th district court; The same vs. The St'r B. L. Hodge No. 2, Capt. and Owners, No. , 5th district court; and The State of Louisiana vs. W'm Fagan et al., No. 809, 5th district court, shall be taken up, tried, and submitted at the same time upon the pleadings and admissions on file and the evidence to be taken, upon the question of the compliance of the Slaughter House Company, on the 1st of June, 1869, with the provisions of the 4th section of act No. 118, of acts of 1869, the evidence to be taken in the case No. 1883, 7th district court, and the testimony taken in that case, to be used in all the other cases above designated; that the court in these several cases are to maintain the exceptions, or reject the testimony, as the case may be, as to the bribery, corruption, etc., of the legislature, on the objections of the attorneys of The Crescent City Live Stock Landing and Slaughter House Company; the other side, in each case, taking bills of exceptions *in each case* to such ruling of the court; the cases to be decided pro forma, and signed as soon as possible, and appeals to be taken by each party, *cost*, on motion, and on giving bonds for costs, without citation or other notice, returnable to the supreme court as soon as possible, and to be filed together. In the mean time, proceedings in all other cases to which The Crescent City Live Stock Landing and Slaughter House Company are engaged or interested, as against any of
51 the other parties, either as plaintiffs or defendants, in these six suits, are staid until the final decision of these suits by the supreme court of the State of Louisiana, and to abide the result, so far as applicable, of the final decision in any or all of the six cases therein named; that these cases shall be, if allowable, submitted to the supreme court on brief, or argued orally together, if possible, as soon as the same shall be allowed by the supreme court, either party to use or refer to any part of any of the six records in either of the six cases. This agreement to be filed in No. 1883, of the 7th district court.

New Orleans, 9th December, 1869.

(Signed) JOSEPH P. HORNER,
For Defendants.
" FELLOWS AND MILLS,
For Plaintiffs.

Judgment.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

Judgment entered 9th December, 1869.

For the reasons assigned in the written opinion of the court on file in this case, it is ordered, adjudged, and decreed that there be judgement for the plaintiffs, Inbau, Aycock, and Co., and against the defendants, The Crescent City Live Stock Landing and Slaughter House Com-
52 pany, perpetuating the injunction sued out herein, with costs.
Judgment signed 14th December, 1869.
(Signed) T. WHARTON COLLENS, *Judge.*

Motion of appeal.—Filed 16th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

On motion of W. H. Hunt and Joseph P. Horner, attorneys for defendants, and on suggesting to the court they are informed and believe that there is error to their prejudice in the final judgment herein rendered, and that they are desirous of appealing therefrom, it is ordered by the court that a suspensive appeal be granted herein to the defendants to the supreme court of the State of Louisiana, returnable on the first Monday of January, 1870, upon their furnishing bond, with good and solvent security, in the sum of two hundred dollars.

Bond of appeal.—Filed 16th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

53 Know all men by these presents that we, The Crescent City Live Stock Landing and Slaughter House Company et al. and F. J. Pratt, are held and firmly bound unto A. D. Bernoudy, clerk of the seventh district court for the parish of Orleans, his executors, administrators, and assigns, in the sum of two hundred dollars; for the payment whereof we bind ourselves, our heirs, executors, firmly by these presents, sealed with our seals, and dated, in the city of New Orleans, on this 16th day of December, in the year of our Lord one thousand eight hundred and sixty-nine.

Whereas the above-bounden C. C. L. S. L. and S. H. Co. et al. this day filed a petition of appeal from a final judgment rendered against them in the suit of Inbau, Aycock and Co. vs. C. C. L. S. L. and S. H. Co. et al., in the 7th district court of parish of Orleans, on the 9th day of December, 1869:

Now, the condition of the above obligation is such, that the above-bound C. C. L. S. L. and S. H. Co. et al. shall prosecute their appeal, and shall satisfy whatever judgment may be rendered against them, or that the same shall be satisfied by the proceeds of the sale of their estate, real or personal, if they be cast in the appeal; otherwise that the said F. J. Pratt, surety, shall be liable in their place.

(Signed) F. J. PRATT, *President.* [L. S.]
" F. J. PRATT. [L. S.]
" GEO. W. CARTER,
By J. P. HORNER, *Attorney.*

Signed, sealed, and delivered in presence of—
54 (Signed) JOSEPH P. HORNER.

Bill of exceptions No. one for defendants.—Filed December 18th, 1869.

INBAU, AYCOCK & CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

Be it remembered that on the trial of this case, in open court, on Thursday, the 9th day of December, 1869, the counsel for plaintiffs offered the evidence of Peter Gardner and others, to prove that defendants had not complied with the provisions of their act of incorporation, sec. 3, to which the counsel of defendants objected on the grounds following:

First. That such matters could not be set up against defendants, except by the State; that parties plaintiff herein had no right to call such fact in question.

Second. That it has be admitted by the State in the pleadings in the case of State of Louisiana, ex rel. S. Belden, attorney general, vs. W'm Fagan et al., No. 869 of the docket of the fifth district court for the parish of Orleans, that defendants had complied with the conditions of their charter, and that said admission is conclusive upon plaintiffs.

But the court overruled these objections and ordered the evidence to be received, when the counsel for defendants excepted to the said ruling of the court, and tendered this bill of exceptions, praying
55 the court to sign the same, and make it a part of the record in this case.

(Signed) T. WHARTON COLLENS, *Judge.*

Bill of exception.—Filed 20th December, 1869.

INBAU, AYCOCK AND CO.
vs.
CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 1537.

Be it remembered that on the trial of this case the counsel for the defendants offered many and various witnesses to prove that the persons, or some of them, named in the 2nd section of the act No. 118 of the session acts of the general assembly for the year 1869, relative to the corporation (so called) of The Crescent City Live Stock Landing and Slaughter House Company, combined to carry through the general assembly the said act for their emolument, and agreed to provide for and to pay a sufficient number of the members of said general assembly to make the majority of the same such sums of money, and such a number of the shares of the preferred stock in said co. as would secure their votes for the act; and that, in pursuance of said agreement, money and evidences of debt were collected, and preferred stock issued, and so expended, and that the votes of a sufficient number of the members of the general assembly were so purchased with money, checks, and
56 preferred stock as to carry the said act through the general assembly; that the parties interested in said act, as parties named therein, or as associates of said parties, did offer to give money and preferred stock to members of the general assembly, who denounced said act as providing for an enormous and corrupt monopoly, and that, while some of these refused to be corrupted, they were enough of the members of the general assembly who did accept the bribes, and who voted for

the bill, and who were moved to give their votes therefor by bribes of money and of evidences of debt, and of stock in the company, to secure the passage of the said act through said general assembly; that the persons named in said act as corporators of the said Crescent City Live Stock Landing and Slaughter House Company, neither severally nor collectively, were ever in any charge, suprintendence, or oversight of the health of the city of New Orleans, nor members of the board of health or city counsel, nor men of property or settled avocation in the city, nor engaged in the slaughtering of cattle or stock, or concerned in its care or custody, or in any way engaged in the slaughter-house business, but were adventurers, who, for the hope of making money, did bribe a sufficient number of the members of general assembly to pass the said act by gifts of money and preferred stock in said company.

To the introduction of which testimony and the examination of which witnesses the counsel for the plaintiff objected on the grounds that the said testimony is impertinent, scandalous, and criminous;
57 that the allegations of the answer under which this testimony is sought to be introduced are general, loose, and of a railing character, without certainty of detail or specification, charging various acts and deeds upon those who are corporators and associates of the corporators of The Crescent City Live Stock Landing and Slaughter House Company, which cannot be admitted to proof in a court of justice, charging the members of the general assembly who participated in the act of flagrant violation of their public duty, and the whole tenor of which is to scandalize and defame said corporations and associates, and the legislative department of the government, and to bring the same and the law into disrepute, derision, and contempt; that it is an attempt to prove matters which it is unbecoming the dignity of the court to hear, testimony which is not only unnecessary to be shown in the cause, but which cannot lawfully be shown, if true; that the court cannot enquire into the motives and inducements which prevailed upon the members of the legislature to vote for the act No. 118 in question, said general assembly being a co-ordinate branch of the government.

Which objections the court sustained, ruled out the testimony, and refused to have the witnesses sworn and examined; to which ruling the counsel for the defendants excepted, and tender this their bill of exception for signature.

(Signed) T. WHARTON COLLENS, *Judge.*

58 *Certificate.*

I, A. D. Bernoudy, clerk of the seventh district court for the parish of Orleans, and as such duly commissioned and sworn, do hereby certify that the foregoing [57] pages do contain a true and correct transcript of all the proceedings had, documents filed, and evidence adduced on the trial of the suit wherein Imbau, Aycock and Co. is the plaintiffs, and The Crescent City Live Stock Landing and Slaughter House Company are defendants, instituted in the said court, and now on the records thereof, under the No. 1537.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on the 20th day of December, in the year of our Lord one thousand eight hundred and sixty-nine, and in the 94th year of the independence of the United States of America.

[SEAL.] (Signed) A. D. BERNOUDY, *Clerk.*

59 *Agreement of counsel.*

Supreme court of Louisiana.

Filed January 3rd, 1870.
(Signed) M. P. JULIAN, *Dep'y Clerk.*

Nos. 2504, 2505, 2506, 2507, 2508, 2509.

INBAU, AYCOCK & CO. *vs.* C. C. L. S. L. & S. H. CO.	No. 2504.
BUTCHERS' BENEV. ASS'ON *vs.* SAME.	" 2505.
L. S. D. & BUTCHERS' ASS'N *vs.* SAME ET ALS.	" 2506.
C. C. L. S. L. & S. H. CO. *vs.* ST'B'T B. L. HODGE & OWNERS.	" 2507.
STATE OF LOUISIANA, EX REL. S. BELDEN, Att'y Gen'l, *vs.* W'M FAGAN ET AL.	" 2508.
C. C. L. S. L. & S. H. CO. *vs.* BUTCHERS' BENEV. ASS'ON.	" 2509.

It is agreed that the above six entitled and numbered suits are to be submitted to the court for adjudication upon the briefs filed and arguments made in the case of the State of La., ex rel. Simeon Belden, Att'y General, vs. W'm Fagan et als., No. 2508 of the docket of this court, and at the same time of the submission of said case.

N. O. January 3rd, 1870.

(Signed) JOSEPH P. HORNOR,
Of Counsel for C. C. L. S. L. & S. H. Co.

60 (Signed) FELLOWS & MILS,
Atty's for Inbau, Aycock & Co. and others in above suits.

Extract from the minutes, case submitted.

SUPREME COURT OF LA.,
Friday, January 28th, 1870.

The court was duly opened. Present, their honors John T. Ludeling, chief justice; and James G. Taliaferro, Rufus K. Howell, W. G. Wyly, William W. Howe, associate justices.

INBAU, AYCOCK & CO. *vs.* THE CRESCENT CITY LIVE STOCK LANDING & Slaughter House Co.	No. 2504.

On written consent thereto of counsel for both parties exhibited to

the court, this case was taken under advisement by the court upon the briefs now on file for both parties.

Extract from the minutes, decree.

SUPREME COURT OF LA.,
Monday, April 11th, 1870.

The court was duly opened, pursuant to adjournment. Present, their honors John T. Ludeling, chief justice; and James G. Taliaferro,
61 W. G. Wyly, W'm W. Howe, associated justices. Absent, Rufus K. Howell, associate justice.

IMBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Co. } No. 2504.

On appeal from the 7th district court for the parish of Orleans.

It is ordered, adjudged, and decreed that the judgment of the district court be avoided and reversed, and that there be judgment against the plaintiffs, dissolving the injunction and rejecting the plaintiffs' demand, with costs in both courts.

Opinion & decree.

Supreme court of La.

Filed April 11th 1870.
(Signed) M. P. JULIAN, *Dep'y Clerk.*

IMBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING & Slaughter House Co. } No. 2504.

Appeal from the 7th district court for the parish of Orleans.

Mr. CHIEF JUSTICE LUDELING:

62 In this case, for the reasons given in the case of The State of La., ex rel. S. Belden, Att'y General, vs. W'm Fagan et als., it is ordered, adjudged, and decreed that the judgment of the district court be avoided and reversed, and that there be judgment against the plaintiffs, dissolving the injunction and rejecting the plaintiffs' demand, with costs in both courts.

Petition for rehearing.

Supreme court of La.

IMBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Company. } No. 2504.

Filed April 26th, 1870.
(Signed) M. P. JULIAN, *Dep'y Clerk.*

The petition of plaintiffs and appellees, with respect, show that they are informed there is error to their prejudice in the judgment and decree rendered herein by this court.

Wherefore & for the reasons and upon the arguments filed in the suit No. 2508, entitled "State of La., ex rel Attorny General, vs. W'm
63 Fagan et als.," they pray for a rehearing in this case; that the judgment heretofore rendered be set aside; and that the judgment of the lower court be affirmed, with costs, and for general relief.

(Signed) FELLOWES & MILLS,
CAMPBELL, SPOFFORD & CAMPBELL,
COTTON & LEVY, *for Pl'ffs and Appellees.*

Extract from the minutes, rehearing refused.

SUPREME COURT OF LA.,
Monday, May 9th, 1870.

The court was duly opened. Present, their honors Jno. T. Ludeling, chief justice; and James G. Taliaferro, Rufus K. Howell, William W. Howe, associate justices. Absent, W. G. Wyly, associate justice.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING & Slaughter House Co. } No. 2504.

It is ordered that the rehearing applied for in this case be refused.

64 *Petition for writ of error.*

Supreme court of La.

INBAU, AYCOCK & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING AND Slaughter House Co.

Filed May 16th, 1870.
(Sig'd) M. P. JULIAN,
Dep'y Clerk Sup. Court State of La.

THE UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans:

To the Hon. Joseph B. Bradley, associate justice of the Supreme Court of the United States:

The petition of Hortair Inbau, Jordan T. Aycock, and Joseph Getzinger, pl'ffs in *in* a cause wherein The Crescent City Live Stock Landing and Slaughter House Company are defendants, respectfully represent that they are aggrieved by a final judgment in the supreme court of the State of Louisiana, in above-named suit, bearing date the 9th day of May, instant, and that they exhibit to your honor a copy of the record of the said cause, with the opinion & decree of the said
65 supreme court therein annexed to this petition as Exhibit A; that it appears on the face of the said record that your petitioners claimed a right, privilege, and title, under the Constitution of the United States, and especially under the fourteenth amendment

thereof, to labor in their vocation of butchers, and to carry on the trade of the dealing in & landing of live stock & slaughter-house business on equal terms and conditions with other citizens of the United States, whensoever & wheresoever said business was allowed under the laws of the State of Louisiana or the United States; but that, against common right and the right of plaintiffs, then petitioners, the legislature of Louisiana did grant to seventeen persons, incorporated as the said Crescent City Live Stock Landing and Slaughter House Company, the sole and exclusive privilege of conducting the live-stock landing and slaughter-house business within the limits and privileges of the said act, and did make it unlawful for any person or persons to
66 land, keep, or slaughter cattle, horses, sheep, swine, or other animals, or to have any stock-landing, yards, pens, slaughter-houses, or abattoirs at any point or place within the parishes of Orleans, Jefferson, or St. Bernard, or within the corporate limits of the city of New Orleans, other than those of the said corporation, and made it unlawful for any person or persons to conduct or to carry on said business, and did require that all places for carrying on said business should be no other than those of said company, and did require that all animals designed for sale and slaughter in said parishes should be landed *and* the wharves, and sheltered and kept at the houses & yards, of said corporation, and fixed a tariff of burdensome charges therefor, contrary to common right and the Constitution of the United States as aforesaid.

And your petitioners aver that they set up in the said cause their constitutional right, title, and privilege, but that the said court overruled and determined adversely to the same, thereby establishing and maintaining an odious, oppressive, and mischievous monopoly
67 against common right and the law of the Constitution.

Wherefore they respectfully pray of your honor to allow a writ of error to the Supreme Court of the United States; to sign a citation to the defendant in said cause; and to approve the bond herewith submitted, and for such order as may further to justice and right in the premises appertain.

(Signed) FELLOWS & MILLS.
" COTTON & LEVY.

Order for writ of error.

Writ of error allowed May 13th, 1870.
(Signed) JOS. P. BRADLEY,
Asso. Justice Sup. Court United States.

68 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you between Hortair Inbau, Jordan T. Aycock, & Joseph Getzinger, composing the commercial firm of Inbau, Aycock, & Co., plaintiffs, and The Crescent City Live Stock Landing and Slaughter House Company, defendants, a manifest error hath happened, to the great damage of the said Inbau, Aycock & Co., as by their complaint appears; we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do com-

mand you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.] D. URBAN,
Clerk United States Circuit Court for the District of Louisiana.

(Indorsed:) Supreme court of Louisiana. No. 2504. Inbau, Aycock & Co. versus The Crescent City Live Stock Landing & Slaughter House Co. Writ of error.

Allowed May 13th, 1870.

JOSEPH P. BRADLEY,
Associate Justice Sup. Ct. U. S.

Filed May 16th, 1870.

M. P. JULIAN,
Dep'y Clerk Sup. Court State of La.

69 *Bond for writ of error.*

Supreme court of La.

INBAU, AYCOCK, & Co.
vs.
THE CRESCENT CITY LIVE STOCK LANDING and Slaughter House Co. } No. 2504.

Filed May 16th, 1870.
(Signed) M. P. JULIAN,
Dep'y Clerk.

Know all men by these presents that we, Inbau, Aycock & Co., composed of Hortair Inbau, Jordan T. Aycock, and Joseph Getzinger, as principals, and James McQuoid & Dominique Vergès, as sureties, are held and firmly bound unto The Crescent City Live Stock Landing and Slaughter House Co. in the full and just sum of five thousand dollars, to be paid to the said Crescent City Live Stock Landing and Slaughter House Co., its certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

70 Whereas lately, at a session of the supreme court of the State of Louisiana, held on the 9th of May, 1870, in a suit depend ing in said supreme court, wherein Inbau, Aycock & Co. were plaintiffs

and The Crescent City Live Stock Landing and Slaughter House Company were defendants, judgment was rendered against the said Inbau, Aycock & Co., and the said Inbau, Aycock & Co. having obtained a writ of error, and filed a copy thereof in the clerk's office of the said supreme court to reverse the judgment in the aforesaid suit, and a citation directed to the said Crescent City Stock Landing and Slaughter House Co., citing and admonishing the said company to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Inbau, Aycock & Co. shall prosecute their writ to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

* * * * * * * *

71 (Signed) INBAU, AYCOCK & CO., [SEAL.]
Per L. S. AYCOCK.
JAMES McQUOID. [SEAL.]
DOMINIQUE VERGEZ. [SEAL.]

Sealed and delivered in the presence of—
(Signed) J. Q. H. FELLOWS.

Approved May 13th, 1870.
(Signed) JOS. P. BRADLEY,
Asso. Justice Sup. Court U. S.

71*a* THE UNITED STATES OF AMERICA, *State of Louisiana:*

The President of the United States to The Crescent City Live Stock Landing and Slaughter House Co., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of State of Louisiana, wherein Inbau, Aycock & Co., a commercial firm composed of Hortair Inbau, Jordan T. Aycock, & Joseph Gitzinger are plaintiffs in error, and you are defendants, to show cause, if any there be, why the judgment rendered against the said plaintiffs, as in said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

JOSEPH P. BRADLEY,
Asso. Justice of Sup. Ct. U. S.

(Indorsed:) Supreme court of Louisiana. No. 2504. Inbau, Aycock & Co. vs. The Crescent City Live Stock Landing & Slaughter House C o. Citation.

Marshal's return.

Received, May 18, 1870, by the U. S. marshal, and on the same day month, and year served a copy of the within citation on the within-named "Crescent City Live Stock Landing & Slaughter House Com-

pany," through F. J. Pratt, president thereof, by delivering the same to him, said Pratt, in person, at his office, corner of Common & Carondelet streets, in this city.

New Orleans, May 18th, 1870.

S. W. REED,
D'y U. S. Marshal.

Sup. court of La.

Filed June 1st, 1870.

M. P. JULIAN, *Dep'y Clerk.*

Citation in error.

Supreme court of Louisiana.

INBAU, AYCOCK & CO.
vs.
THE CRESCENT CITY LIVE STOCK LANDING & SLAUGHTER HOUSE CO. } No. 2504.

THE UNITED STATES OF AMERICA, *State of Louisiana:*

The President of the United States to The Crescent City Live Stock Landing & Slaughter House Co., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error
72 filed in the clerk's office of the Supreme Court of La., wherein Inbau, Aycock & Co., a commercial firm composed of Hortair Inbau, Jordan T. Aycock, and Joseph Gitzinger, are plaintiffs in error, and you are defendants, to show cause, if any there be, why the judgment rendered against the said plaintiffs, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

(Signed) JOSEPH P. BRADLEY,
Asso. Justice Sup. Court U. S.

Marshal's return.

Received, May 18th, 1870, by the U. S. marshal, and on the same day, month, and year served a copy of the within citation on the within-named Crescent City Live Stock Landing and Slaughter House Company, through F. J. Pratt, president thereof, by delivering the
73 same to him, said Pratt, in person, at his office, corner of Common and Carondelet streets, in this city.

New Orleans, May 18th, 1870.

(Signed) S. W. REED,
Dep'y U. S. Marshal.

(Indorsed:) Supreme Court of La. Filed June 1st, 1870. (Signed) M. P. Julian, dep'y clerk.

Certificate.

UNITED STATES OF AMERICA,
Supreme Court, E. D., State of Louisiana:

I, M. P. Julian, dep'y clerk supreme court State of Louisiana, do hereby certify that the foregoing seventy-three pages contain a true copy of the transcript of the proceedings had in the seventh district court for the parish of Orleans, in a certain suit wherein Imbau, Aycock & Co. were plaintiffs, and The Crescent City Live Stock Landing and Slaughter House Company were defendants; and also of the proceedings had in this supreme court on the appeal taken by said Crescent City Live Stock Landing and Slaughter House Company;
74 which appeal is now on the files thereof, under No. 2504.

In testimony whereof I have hereunto set my hand and affixed the seal of this honorable court, at the city of New Orleans, this the first day of August, anno Domini eighteen hundred and seventy, and in the ninety-fifth year of the independence of the United States of America.

[SEAL.] M. P. JULIAN,
Dep'y Clerk.

(Indorsement on cover:) No. 475. Hortair Imbau, Jordan F. Aycock, & Joseph Gitzinger, composing the firm of Imbau, Aycock & Co., plaintiffs in error, vs. The Crescent City Live Stock Landing and Slaughter House Co. Louisiana sup. court.
Filed 30th August, 1870.